



County of Los Angeles CHIEF EXECUTIVE OFFICE

Kenneth Hahn Hall of Administration
500 West Temple Street, Room 713, Los Angeles, California 90012
(213) 974-1101
<http://ceo.lacounty.gov>

WILLIAM T FUJIOKA
Chief Executive Officer

Board of Supervisors
GLORIA MOLINA
First District

MARK RIDLEY-THOMAS
Second District

ZEV YAROSLAVSKY
Third District

DON KNABE
Fourth District

MICHAEL D. ANTONOVICH
Fifth District

November 9, 2010

To: Supervisor Gloria Molina, Chair
Supervisor Mark Ridley-Thomas
Supervisor Zev Yaroslavsky
Supervisor Don Knabe
Supervisor Michael D. Antonovich

From: William T Fujioka
Chief Executive Officer

A handwritten signature in black ink, appearing to be "WTF", written over a horizontal line.

Andrea Sheridan Ordin
County Counsel

A handwritten signature in black ink, appearing to be "A", written over a horizontal line.

JOINT REPORT OF THE CHIEF EXECUTIVE OFFICE COUNTY RISK MANAGER AND COUNTY COUNSEL LITIGATION COST MANAGER REGARDING ACCOMPLISHMENTS OF FISCAL YEAR 2009-10

Pursuant to an October 16, 2007 motion by Supervisor Molina, your Board instructed the Chief Executive Officer's (CEO) County Risk Manager and County Counsel's Litigation Cost Manager to prepare a joint report identifying specific accomplishments during Fiscal Year (FY) 2007-08 that supported the efforts of risk management and reduction of the County of Los Angeles' (County) exposure to litigation. The report is also to identify joint goals and objectives for subsequent fiscal years.

In addition, on November 5, 2008, on a motion by Supervisor Molina and as amended by Supervisor Antonovich, your Board directed the CEO, County Counsel, County Risk Manager, and other Department Heads, as appropriate, to create a Legal Exposure Reduction Committee (Committee) to meet quarterly; establish an annual Countywide and departmental legal exposure reduction goal; create proactive County Counsel procedures to advise departments on various methods to reduce legal cost; create procedures to discuss areas of potential exposure, and develop and implement specific strategies calculated to prevent future claims and lawsuits; provide updated training on new changes in laws and policies for each appropriate department to implement; assess the efficacy of corrective action plans, review management training and implementation of County policies, review lessons learned, discuss areas of potential exposure, and develop and implement specific strategies calculated to prevent future claims and lawsuits; and report annually on their progress and efforts.

"To Enrich Lives Through Effective And Caring Service"

**Please Conserve Paper – This Document and Copies are Two-Sided
Intra-County Correspondence Sent Electronically Only**

Each Supervisor
November 9, 2010
Page 2

The report attached responds to both of these directives since the Committee's activities represent one of the joint efforts between the CEO and County Counsel. Identified in the report are joint accomplishments of FY 2009-10.

Unless otherwise directed by your Board, and to better facilitate the departmental planning processes, the timing for presentation of future reports relating to the two motions will be changed. To allow a more adequate focus on risk management issues, the Fall report will concentrate on joint accomplishments from the prior fiscal year. This will be presented at the first Board meeting in November 2010. A Spring report, to be presented the first week of April 2011, will concentrate on goals and objectives for the following fiscal year. This will better align the discussion of goals and objectives with the budgeting processes of the departments.

For additional information, your staff may contact Laurie Milhiser, County Risk Manager, at (213) 351-5346, or Steven H. Estabrook, Litigation Cost Manager, at (213) 974-1762.

If you have any questions, please have your staff contact Ellen Sandt at (213) 974-1186 or esandt@ceo.lacounty.gov.

WTF:ASO:SHE:ES
SEN:SE:sg

Attachment

c: All Department Heads

**JOINT REPORT
COUNTY RISK MANAGER AND LITIGATION COST MANAGER
REGARDING ACCOMPLISHMENTS OF FISCAL YEAR 2009-10**

Legal Exposure Reduction Committee

The Committee consists of two co-chairs, the County Risk Manager and Litigation Cost Manager, and representatives from key departments. Committee members include:

Laurie Milhiser, County Risk Manager, Chief Executive Office
Steven H. Estabrook, Litigation Cost Manager, County Counsel
Lisa M. Garrett, Director of Personnel, Department of Human Resources
Donald H. Blevins, Chief Probation Officer, Probation Department
Philip L. Browning, Director, Department of Public Social Services
Gail Farber, Director, Department of Public Works
Roberta A. Abner, Chief, Sheriff's Department
Dennis A. Tafoya, Director, Office of Affirmative Action Compliance

A complete list of members and subcommittees is attached for your reference (See Attachment I).

The Committee has taken the following actions:

Meet Quarterly

Although directed by the motion to meet quarterly, the Committee has met approximately once per month during the last year in order to advance the goals of the Committee. The various sub-committees have also met regularly and reported on their efforts at the Committee meetings.

Establish a Countywide and Departmental Legal Exposure Reduction Goal

Committee members agreed to the following goal:

By June 30, 2011, reduce by five percent, Countywide indemnity and legal costs associated with the County of Los Angeles' (County) claims and litigation, including workers' compensation and tort claims. Departmental risk exposure reduction goals will be specific to each department and may include cost reductions or other aspects of risk management. The five percent cost reduction goal shall be established based upon the average annual costs of each category over the last three Fiscal Years (2006-07, 2007-08, 2008-09).

As reported in the prior annual report, this goal was communicated to Department Heads in a memorandum from the Chief Executive Office (CEO) dated August 21, 2009. Each department has established a departmental legal exposure reduction goal as included in their respective Risk Exposure Cost Avoidance Plan (RECAP).

Create Proactive County Counsel Procedures to Advise Departments on Various Methods to Reduce Legal Cost

- **High-Level Discussions.** At various Litigation Exposure Reduction Committee meetings conducted during the last fiscal year, County Counsel staff made presentations which emphasized the importance of controlling risk through proper claims and litigation management, as well as through the implementation of basic steps designed to place the County in the best defensive position.
- **Attorney-Department Pairing.** County Counsel implemented a pilot program aimed at reducing the number of employment-related lawsuits filed against the County. Under the program, when a claim is filed with the Executive Office of the Board of Supervisors and forwarded to County Counsel, immediate steps are taken to assign an attorney to work with the department against whom the claim is filed. The assigned attorney, who has expertise in a particular type of employment law, contacts the affected department's risk manager and works closely with him/her to resolve the issues presented in the claim in an effort to prevent the matter from maturing into a lawsuit. A preliminary evaluation of the program has shown that focusing specialized resources in the early stages of a claim can have a beneficial effect. Due to the preliminary success of this pilot program, the feasibility of even earlier attorney intervention in employment matters at the department complaint stage is being considered.
- **Training Program.** With the advent of new laws governing discovery of electronically stored information (E-Discovery), risk managers must be aware of their legal responsibility and the potential pitfalls of the new law. To this end, staff from CEO, Internal Services Department (ISD), Chief Information Office (CIO), and County Counsel conducted training courses which included an introduction to electronic discovery, records management, information management, and litigation requirements and responsibilities. The e-discovery team also covered various topics essential to electronic discovery compliance.
- **Claim Reports.** An evaluation of the County Counsel claims handling procedure revealed that improvement was needed in departmental response times to County Counsel requests for information regarding claims. Commencing in early 2010, County Counsel staff implemented measures to work with departments to improve these response times. Early indications are that these procedures have proved effective.
- **Corrective Action Plans – Early Discussion.** Early analysis of claims and litigation is critical in the development and implementation of corrective action plans. In an effort to encourage early consideration of remedial measures, the status of corrective action plans is now raised very early in the case evaluation and management process. These discussions are intended to prompt early consideration of appropriate corrective measures to encourage regular and continuing focus on such matters, and to avoid delays in settling cases.
- **Department of Public Works – Litigation Action Steering Committee.** County Counsel staff meets monthly with the Department of Public Works' (DPW) Risk Managers and Division Chiefs to discuss litigation-related issues involving road cases. In addition to these meetings, County Counsel also meets with DPW risk management personnel on an as-needed basis to discuss significant claims and litigation. The purpose of these meetings is, under the protection of the attorney-client

communication privilege, to develop a preliminary defense plan at the outset of a claim or lawsuit, identify and clarify issues likely to surface during the course of the claim or action, and define potential exposure. These "case" meetings promote early consideration of corrective action measures and supplement the current litigation management protocols.

- **Contract Cities Agreements.** During the last fiscal year, County Counsel reviewed a number of the existing contract cities agreements, with particular attention on updating and standardizing indemnity provisions. New contractual language relating to indemnification was incorporated into contracts involving the Sheriff's Department and various transportation agencies. Discussions are currently ongoing regarding the incorporation of new contractual indemnity language into contract cities agreements when they are renewed or renegotiated.
- **Electronic Bill Review System.** The Request for Proposals (RFP) for the E-Billing System was released on September 24, 2009. The RFP remained open for Proposer responses until October 28, 2009. On October 8, 2009, a Proposers' conference was conducted to discuss the RFP requirements. On October 15, 2009, a written response to all Proposers' questions was distributed as an amendment to the RFP. Proposal packages (Proposals) were submitted by five Proposers and received by the County by the October 28, 2009 deadline. The qualified Proposers were then considered by an Evaluation Committee, who completed the evaluation process on July 8, 2010. On September 16, 2010, ISD posted the Notice of Intent to Award regarding the E-Billing System and identified CT Tymetrix (CT) as the highest scoring Proposer and contract discussions with CT are underway.

Create Procedures to Discuss Areas of Potential Exposure, and Develop and Implement Specific Strategies Calculated to Prevent Future Claims and Lawsuits

Your Board has directed each Department Head to create Management Appraisal and Performance Plan (MAPP) goals that will decrease risk in their departments. These goals are established each year.

The Committee previously endorsed the use of the RECAP as one recommendation for Department Heads to consider when developing their MAPP goals. This was later established by the CEO as an annual departmental requirement.

The Committee reviewed two electronic databases that could be used on a Countywide basis to help manage return-to-work (RTW) and disability management cases. Funding for a program was included in the supplemental budget request by the Department of Human Resources (DHR).

The following sub-committees have been established to focus on specific areas of potential exposure and develop strategies to prevent future claims and lawsuits.

- **Classification Studies;** CEO – Over the past year, the sub-committee evaluated the risk management structure for the Department of Health Services (DHS). Through collaboration with the CEO's Health and Mental Health Services cluster, CEO Risk Management Branch, and DHS, this study led to a complete restructure of the risk function within the department and in a new classification – Risk Manager, Health Services. This structure was ultimately approved and DHS has been implementing the new structure.

Classification Studies (Continued)

The sub-committee then analyzed the classification issues on a Countywide basis. The study's findings resulted in recommendations which are being evaluated for Countywide application to maintain the current staffing model and technical classifications within the RTW function; curtail the practice of filling RTW coordinator positions – Senior Departmental Personnel Technician and Departmental Personnel Technician – with under-qualified classifications; retain current class specifications within the safety series; and staff safety classifications based on department incident rates and RECAP goals.

- **Employment Practices;** The sub-committee is comprised of members from eight County departments, including DHR, Office of Affirmative Action Compliance (OAAC), Sheriff, Probation, and County Counsel. Its efforts have focused on three employment issues: (1) Disability Discrimination; (2) Wrongful Termination; and (3) Wage and Hour violations. Three "Strike Teams" were created to address each issue on a Countywide basis.
 - **Disability Discrimination Strike Team.** The Strike Team has developed and implemented an aggressive training program to address a variety of discrimination issues. Based on lessons learned from litigation and related corrective actions, Countywide leave management policies were drafted. These policies are currently being presented to County labor unions. On November 18, 2009, mandatory Legal Exposure Reduction Committee (LERC) Reasonable Accommodation and Performance Management Training Sessions commenced Countywide. This training program provides an overview of the major labor and employment risk management challenges facing the County. As of mid-September 2010, approximately 2,185 managers/staff had completed the training. A specialized LERC Training entitled "Disability Management" was also developed for the Sheriff's Department. Presented to Commanders, Captains, and Lieutenants, these training sessions focused on the interactive process, reasonable accommodations, and the Federal and State Medical Leave Acts. The goal of this training is to provide managers with the necessary guidance to reduce liability and exposure in managing RTW issues.
 - **Wage and Hour Strike Team.** The strike team is currently working to develop a training program for departmental managers and personnel staff responsible for enforcing existing policies related to such issues as timekeeping and overtime.
 - **Wrongful Termination Strike Team.** The initial efforts of this team involved the presentation of the Internal Review Committee (IRC) process as a "best practices" model. This process addresses not only wrongful termination issues, but a wide variety of disciplinary actions. Team efforts also have resulted in the regular review by County Counsel of departmental disciplinary actions, particularly those of DHS.
- **Training;** DHR – The sub-committee, consisting of representatives from DHR, CEO, and County Counsel, is responsible for developing and conducting a comprehensive employment-focused, risk management-related training program for managers, supervisors, and human resources personnel who are responsible for handling RTW/health and safety/leave management-related matters. The mandatory, one-day LERC training program was launched in November 2009. It covers essential information regarding current issues involving Americans with Disabilities Act (ADA)/Fair

Employment and Housing Act (FEHA), workers' compensation, performance management basics, and the interactive process for reasonable accommodation. Participants learn their roles, responsibilities, and the tools for effective documentation in this process to reduce/limit the County's legal exposure. As of mid-September, 51 workshops have been conducted, with 2,185 participants receiving training. An online version of the training is due for release through the Learning Net in October 2010.

- **Workers' Compensation;** The CEO regularly provided updates on the workers' compensation program, workers' compensation trends, and legislative activities that could affect the program. The February 2010 document, *"Helping Injured Employees Return to Work: Practice Guidance Under Workers' Compensation and Disability Rights Laws in California,"* was distributed to all Committee members, as well as all departmental RTW coordinators. An overview of workers' compensation has been included in the mandatory LERC training mentioned above.

Provide Updated Training on New Changes in Laws and Policies for Each Appropriate Department to Implement

Training on new changes in laws and policies is provided by the CEO, County Counsel, DHR, OAAC, and others.

Some of the training completed in the last year for Countywide audiences includes:

- Mandatory Legal Exposure Reduction Training for all managers and supervisors was announced in a memorandum dated March 11, 2010 from the CEO and Director of Personnel to Department Heads;
- "Risk Leadership," hosted by the Department of Public Works;
- "12 Steps to Avoiding Liability;"
- Four CEO-sponsored Risk Management Coordinator training sessions, which addressed a wide range of risk management issues, including RECAP, workers' compensation, data collection, corrective action plans (CAPs) and summary corrective action plans (SCAPs), E-discovery, negligent hiring and retention, vehicle loss control issues, RTW self assessments, loss control and prevention self-assessments, and other subjects;
- Six CEO-sponsored Loss Control and Prevention training sessions;
- Four CEO-sponsored RTW training sessions;
- Eight CEO-sponsored *Return-To-Work 101* training sessions for new RTW coordinators; and
- A Countywide symposium on performance management and discipline was conducted.

Additional training was provided on a department-by-department basis.

Assess the efficacy of Corrective Action Plans, review management training and implementation of County policies, review lessons learned, discuss areas of potential exposure, and develop and implement specific strategies calculated to prevent future claims and lawsuits

The Committee discussed the CAP process, including lessons learned and potential improvements to the existing program. In the past year, the CEO has established a requirement for the CEO to approve all CAPs before they are submitted to the Claims Board and/or Board of Supervisors.

There have been discussions on options for sharing lessons learned and better uses of performance data in determining the timing of CAP development. Detailed CAP-related information and statistics can be found in the CEO risk management annual reports.

Significant issues identified in CAPs and approaches to minimizing County exposures are discussed by the Committee. These issues, such as the categories of employment practices liability and vehicle liability, continue to be monitored and studied.

Contract Cities Claim Resolution Memorandum of Understanding

The Memorandum of Understanding (MOU) has been drafted and is still being reviewed by the California Joint Powers Insurance Authority.

Risk Exposure Cost Avoidance Plan

The CEO developed and implemented a departmental risk management planning tool that provides County departments with a methodology to assess departmental exposures and to develop specific performance goals related to risk reduction and loss control.

In a memorandum dated September 25, 2009, the CEO required each Department Head to establish a RECAP starting with FY 2009-10 and continuing annually (see Attachment II).

COUNTY OF LOS ANGELES
LEGAL EXPOSURE REDUCTION COMMITTEE

ROSTER

MEMBERS	
CHIEF EXECUTIVE OFFICE	COUNTY COUNSEL
<p><u>Co-Chair</u></p> <p>Laurie Milhiser, County Risk Manager Chief Executive Office Risk Management Branch 3333 Wilshire Boulevard, Suite 820 Los Angeles, CA 90010 Phone: (213) 351-5346 Fax: (213) 252-0405 snyblom@ceo.lacounty.gov</p> <p><u>Secretary</u> Sally Garcia Phone: (213) 351-6401 sgarcia@ceo.lacounty.gov</p>	<p><u>Co-Chair</u></p> <p>Steven H. Estabrook, Litigation Cost Manager Office of the County Counsel 648 Kenneth Hahn Hall of Administration 500 West Temple Street Los Angeles, CA 90012 Phone: (213) 974-1762 Fax: (213) 687-7300 sestabrook@counsel.lacounty.gov</p> <p><u>Secretary</u> Mayra Gomez Phone: (213) 893-2279 mgomez@counsel.lacounty.gov</p>
DEPARTMENT OF HEALTH SERVICES	DEPARTMENT OF HUMAN RESOURCES
<p><u>Pending</u></p> <p>Department of Health Services 313 North Figueroa St., Room 909 Los Angeles, CA 90012 Phone: Fax: Email:</p> <p><u>Secretary</u> Chris Barragan Phone: (213) 240-8116 cbarragan@dhs.lacounty.gov</p> <p><u>Back-up</u></p> <p>Timothy Pescatello Phone: (323) 890-8712 tpescatello@dhs.lacounty.gov</p> <p><u>Secretary</u> Gail Ferguson Phone: (323) 890-8712 gferguson@dhs.lacounty.gov</p>	<p>Lisa M. Garrett, Director of Personnel Department of Human Resources 579 Kenneth Hahn Hall of Administration 500 West Temple Street Los Angeles, CA 90012 Phone: (213) 974-2406 Fax: (213) 621-0387 lgarrett@hr.lacounty.gov</p> <p><u>Secretary</u> Kathy Campos Phone: (213) 974-2407 kcampos@hr.lacounty.gov</p> <p><u>Back-up</u></p> <p>Marian Hall, Assistant Director Phone: (213) 974-2631 mhall@hr.lacounty.gov</p> <p><u>Secretary</u> Pauline Oghenekohwo Phone: (213) 974-2397 poghenekohwo@hr.lacounty.gov</p>

MEMBERS

OFFICE OF AFFIRMATIVE ACTION COMPLIANCE	PROBATION DEPARTMENT
<p>Dennis A. Tafoya, Director Office of Affirmative Action Compliance 780 Kenneth Hahn Hall of Administration 500 West Temple Street Los Angeles, CA 90012 Phone: (213) 974-1087 Fax: (213) 626-7034 dtafoya@oaac.lacounty.gov</p> <p><u>Secretary</u> Norma Rios Phone: (213) 974-0158 nrios@oaac.lacounty.gov</p> <p><u>Back-up</u> Evangeline V. Ross, Chief Deputy Director Phone: (213) 974-1087 eross@oaac.lacounty.gov</p> <p><u>Secretary</u> Bryan Conley Phone: (213) 974-2692 bconley@oaac.lacounty.gov</p>	<p>Donald H. Blevins, Chief Probation Officer Probation Department 9150 East Imperial Highway Downey, CA 90242 Phone: (562) 940-2501 Fax: (562) 803-0519 Donald.Blevins@probation.lacounty.gov</p> <p><u>Secretary</u> Gail Joslin Phone: (562) 940-2516 Gail.Joslin@probation.lacounty.gov</p> <p><u>Back-ups</u> Cal Remington, Acting Chief Deputy Phone: (562) 940-2511 Cal.Remington@probation.lacounty.gov</p> <p>Tracy Jordan-Johnson, Head/Custodian of Records Civil Litigation Office Phone: (323) 260-2797 Tracy.Jordan@probation.lacounty.gov</p> <p><u>Secretary</u> Sheila Willis Phone: (562) 940-2504 Sheila.Willis@Probation.lacounty.gov</p>
DEPARTMENT OF PUBLIC SOCIAL SERVICES	DEPARTMENT OF PUBLIC WORKS
<p>Philip L. Browning, Director Department of Public Social Services 12860 Crossroads Parkway South City of Industry, CA 91746-3411 Bus: (562) 908-8383 Fax: (562) 908-0459 philipbrowning@dpss.lacounty.gov</p> <p><u>Secretary</u> LaTanya McGlothen Phone: (562) 908-8600 latanyamcglothen@dpss.lacounty.gov</p>	<p>Gail Farber, Director Department of Public Works 900 South Fremont Avenue Alhambra, CA 91803 Phone: (626) 458-4002 Fax: (626) 458-4022 gfarber@dpw.lacounty.gov</p> <p><u>Secretary</u> Debi Holmes Phone: (626) 458-4002 dholmes@dpw.lacounty.gov</p> <p><u>Back-up</u> Mark Pestrella, Assistant Director Phone: (626) 458-4001 mpestrella@dpw.lacounty.gov</p> <p><u>Secretary</u> Adrine Dermenjian Phone: (626) 458-4001 adermenj@dpw.lacounty.gov</p>

MEMBERS

LOS ANGELES SHERIFF DEPARTMENT

Roberta A. Abner, Chief

Los Angeles Sheriff Department
4700 Ramona Boulevard
Monterey Park, CA 91754-2169
Phone: (323) 526-5365
Fax: (323) 267-6600
raabner@lasd.org

Secretary

Georgette Burgess
Phone: (323) 526-5377
GDBurges@lasd.org

Back-up

Eric Smith, Commander
Phone: (323) 890-5370
ebsmith@lasd.org

Secretary

Lisa Correa
Phone: (323) 890-5364
mmcorrea@lasd.org

SUB-COMMITTEES

CLASSIFICATION STUDIES

Chair**Steve Masterson**

Chief Executive Office
Compensation/Classification
Phone: (213) 974-8481
smasterson@ceo.lacounty.gov

William Lynes
Chief Executive Office
Compensation/Classification
Phone: (213) 974-2486
wlynes@ceo.lacounty.gov

John Federle
Chief Executive Office
Compensation/Classification
Phone: (213) 974-2481
jfederle@ceo.lacounty.gov

SUB-COMMITTEES**EMPLOYMENT PRACTICE LIABILITY****Chair****Steven H. Estabrook**

County Counsel

Phone: (213) 974-1762

sestabrook@counsel.lacounty.gov

Jim Adams

Chief Executive Office

Phone: (213) 974-2404

jadams@ceo.lacounty.gov

William Dukes

Chief Executive Office

Phone: (213) 974-2788

wdukes@ceo.lacounty.gov

Timothy Pescatello

Dept. of Health Services

Phone: (323) 890-8712

tpescatello@dhs.lacounty.gov

Greg Polk

Dept. of Health Services

Phone: (213) 240-8124

gpolk@dhs.lacounty.gov

Marian Hall (or designee)

Dept. of Human Resources

Phone: (213) 738-2222

mhall@hr.lacounty.gov

Epifanio Peinado

Dept. of Human Resources

Phone: (213) 893-0872

epeinado@hr.lacounty.gov

Hayward Harris, Jr.

Office of Affirmative Action Compliance

Phone: (213) 974-1385

hharris@oaac.lacounty.gov

Pending

Probation Department

Phone:

Email:

Lt. Shaun Mathers

Los Angeles Sheriff Department

Phone: (323) 890-5400

sjmathers@lasd.org

Lt. Katherine "Kathi" Pattullo

Los Angeles Sheriff Department

Phone: (562) 946-7263

klpattul@lasd.org**Disability Discrimination Strike Team**

Manuel Valenzuela

Assistant County Counsel

Wage and Hour Strike Team

Manuel Valenzuela

Assistant County Counsel

Albert Kelly, Principal Deputy

County Counsel

Mary C. Wickham, Principal Deputy

County Counsel

Victor Rampulla

Los Angeles County Sheriff Department

Kevin Herbert

Los Angeles County Sheriff Department

Frank Williams

Los Angeles County Sheriff Department

Manny Talamantes

Chief Executive Office

Bill Dukes

Chief Executive Office

Corrine Chico

Auditor-Controller

SUB-COMMITTEES

MEDICAL MALPRACTICE	REGULATORY COMPLIANCE
<p><u>Chair</u> Gail V. Anderson, Jr., MD Dept. of Health Services Phone: (213) 240-8344 Email: gaanderson@dhs.lacounty.gov</p> <p>Kim McKenzie Dept. of Health Services Phone: (213) 240-8283 kmckenzie@dhs.lacounty.gov</p> <p>Greg Polk Dept. of Health Services Phone: (213) 240-8124 gpolk@dhs.lacounty.gov</p>	<p><u>Chair</u> <i>Members pending.</i></p>
TRAINING	WORKERS' COMPENSATION
<p><u>Chair</u> Bruce McDonald Dept. of Human Resources Organizational and Employee Development Phone: (213) 738-2299 bmcDonald@hr.lacounty.gov</p> <p>LaTanya Love Dept. of Human Resources Phone: (213) 639-6736 llove@hr.lacounty.gov</p> <p>Cathy Stein-Romo Chief Executive Office Phone: (213) 738-2228 cstein@ceo.lacounty.gov</p> <p>Steve Morris County Counsel Phone: (213) 974-1957 smorris@counsel.lacounty.gov</p> <p>Phillip M. Peters Office of Affirmative Action Compliance Phone: (213) 974-1385 ppeters@oaac.lacounty.gov</p>	<p><u>Chair</u> Alex Rossi Chief Executive Office Risk Management Branch Workers' Compensation Phone: (213) 738-2154 arossi@ceo.lacounty.gov</p> <p>Roberta A. Abner Los Angeles Sheriff Department Phone: (323) 526-5365 Phone: (323) 890-5400 raabner@lasd.org</p> <p>Pending Probation Department Phone: Email:</p>

i:\Legal Exposure Reduction Cmte\LERC Roster.doc



County of Los Angeles CHIEF EXECUTIVE OFFICE

Kenneth Hahn Hall of Administration
500 West Temple Street, Room 713, Los Angeles, California 90012
(213) 974-1101
<http://ceo.lacounty.gov>

WILLIAM T FUJIOKA
Chief Executive Officer

Board of Supervisors
GLORIA MOLINA
First District

MARK RIDLEY-THOMAS
Second District

ZEV YAROSLAVSKY
Third District

DON KNABE
Fourth District

MICHAEL D. ANTONOVICH
Fifth District

September 25, 2009

To: All Department Heads

From: William T Fujioka
Chief Executive Officer

RISK EXPOSURE COST AVOIDANCE PLAN AND DEPARTMENTAL LEGAL EXPOSURE REDUCTION GOAL

The Board of Supervisors (Board) is very interested in reducing exposures, claims and litigation expense, and advancing risk management practices within each department. In November 2008, the Board directed the Chief Executive Office (CEO) and County Counsel to create an executive-level Legal Exposure Reduction Committee (LERC) and directed each Department Head to accept a risk management-related Management Appraisal and Performance Plan (MAPP) goal.

The November 2008 motion that created LERC also included a requirement that LERC establish a Countywide and departmental legal exposure reduction goal. During LERC's July 23, 2009 meeting, the committee members established the following goal:

By June 30, 2011, reduce by five percent, Countywide indemnity and legal costs associated with the County of Los Angeles' claims and litigation, including workers' compensation and tort liability. Departmental risk exposure reduction goals will be specific to each department and may include cost reductions or other aspects of risk management. The five percent cost reduction goal shall be established based upon the average annual costs of each category over the last three Fiscal Years (2006-07, 2007-08, 2008-09).

The minimum amount of decrease each department should strive to attain (five percent goal for each department) is displayed on Attachment I.

"To Enrich Lives Through Effective And Caring Service"

**Please Conserve Paper – This Document and Copies are Two-Sided
Intra-County Correspondence Sent Electronically Only**

All Department Heads
September 25, 2009
Page 2

In May 2009, I challenged each Department Head to accept a risk management MAPP goal, and in August 2009, I communicated LERC's goal to you. In both memoranda, I introduced the Risk Exposure Cost Avoidance Plan (RECAP), [Attachment II], as a method to evaluate department exposures and to establish specific risk management objectives to reduce future claims and lawsuits.

To further support the Board's emphasis of the reduction of exposures and legal expense, each department must now complete a RECAP that specifies the risk management objectives and the specific activities your department will implement by June 30, 2010. The CEO Risk Management Branch will provide the electronic version of the RECAP form to all departments by October 1, 2009. Your department's Fiscal Year 2009-10 RECAP must be completed and submitted to Steve NyBlom, CEO Risk Management Branch, by November 13, 2009.

Please be prepared to develop an annual RECAP for each fiscal year hereafter.

The CEO will compile departmental RECAP status reports. The status report of department objectives and activities, for the July 1, 2009 to June 30, 2010 period, should be submitted to Steve NyBlom by August 31, 2010. Your second RECAP report, to be submitted by July 31, 2010, should include all risk management objectives and activities planned for Fiscal Year 2010-11. In the near future, CEO Risk Management will provide detailed reporting instructions.

If you have any questions or would like assistance developing your department's RECAP, please contact Rocky A. Armfield, County Risk Manager, at (213) 351-5346, or your staff may contact Steve NyBlom, Manager, CEO, at (213) 738-2214.

WTF:ES
RAA:SN:sg

Attachments

c: Each Supervisor

County of Los Angeles All Claims Count and Cost Summary and Legal Exposure Reduction Committee Goal

Department	FY 2006-07 Amount Paid	FY 2007-08 Amount Paid	FY 2008-09 Amount Paid	Three-Year Average Amount Paid	Dept. Five Percent Reduction Goal
Affirmative Action Compliance	\$31,593	\$40,953	\$42,625	\$38,390	\$1,920
Agricultural Commissioner/Weights and Measures	\$946,488	\$1,183,889	\$908,601	\$1,012,993	\$50,650
Alternate Public Defender	\$946,768	\$461,947	\$107,232	\$505,316	\$25,266
Animal Care and Control	\$764,468	\$1,218,104	\$1,553,426	\$1,178,666	\$58,933
Assessor	\$1,483,068	\$1,404,834	\$1,181,621	\$1,356,508	\$67,825
Auditor-Controller	\$823,301	\$316,326	\$766,134	\$635,254	\$31,763
Beaches and Harbors	\$595,299	\$503,216	\$1,374,640	\$824,385	\$41,219
Board of Supervisors	\$742,663	\$752,436	\$1,555,047	\$1,016,715	\$50,836
Chief Executive Office	\$671,804	\$959,156	\$1,256,124	\$962,361	\$48,118
Chief Information Office	\$3,523	\$17,092	\$39,485	\$20,033	\$1,002
Child Support Services	\$3,514,675	\$3,302,528	\$3,173,403	\$3,330,202	\$166,510
Children and Family Services	\$17,846,546	\$18,009,260	\$19,450,789	\$18,435,532	\$921,777
Community and Senior Services	\$860,131	\$988,587	\$946,549	\$931,756	\$46,588
Consumer Affairs	\$57,944	\$235,753	\$107,996	\$133,898	\$6,695
Coroner	\$960,420	\$1,192,293	\$1,424,706	\$1,192,473	\$59,624
County Counsel	\$645,079	\$415,052	\$361,974	\$474,035	\$23,702
District Attorney	\$6,346,038	\$5,228,194	\$5,472,892	\$5,682,375	\$284,119
Fire	\$49,427,715	\$51,454,753	\$54,221,111	\$51,701,193	\$2,585,060
Health Services	\$85,623,044	\$63,005,583	\$69,725,868	\$66,118,165	\$3,305,908
Human Relations Commission	\$970	\$43,458	\$41,584	\$28,671	\$1,434
Human Resources	\$282,058	\$89,931	\$120,138	\$164,042	\$8,202
Internal Services	\$6,126,381	\$4,592,515	\$4,475,242	\$5,064,713	\$253,236
LACERA	\$471,357	\$362,021	\$345,942	\$393,107	\$19,655
Mental Health	\$5,732,343	\$7,145,533	\$7,837,514	\$6,905,130	\$345,256
Military and Veterans Affairs	\$54,452	\$76,120	\$12,054	\$47,542	\$2,377
Museum of Art	\$167,347	\$204,249	\$57,225	\$142,940	\$7,147
Museum of Natural History	\$103,660	\$180,884	\$257,165	\$180,570	\$9,028
Non-Jurisdictional	\$261,290	\$450,267	\$174,350	\$295,302	\$14,765
Office of Public Safety	\$4,470,546	\$4,403,913	\$5,117,807	\$4,664,089	\$233,204
Ombudsman	\$0	\$0	\$0	\$0	\$0
Parks and Recreation	\$6,396,296	\$3,541,620	\$3,947,958	\$4,628,625	\$231,431
Pending Assignment	\$18,268	\$3,754	\$4,079	\$8,700	\$435
Probation	\$27,741,597	\$32,948,868	\$36,299,667	\$32,996,711	\$1,649,836
Public Defender	\$1,280,274	\$1,375,605	\$2,210,166	\$1,622,015	\$81,101
Public Health	\$7,675,253	\$9,924,428	\$6,877,916	\$8,159,199	\$407,960
Public Library	\$844,160	\$1,023,735	\$787,481	\$885,125	\$44,256
Public Social Services	\$31,390,751	\$33,387,751	\$34,390,894	\$33,056,465	\$1,652,823
Public Works	\$14,153,206	\$15,941,749	\$12,470,707	\$14,188,554	\$709,428
Regional Planning	\$56,376	\$227,916	\$473,202	\$252,498	\$12,625
Registrar-Recorder/County Clerk	\$1,168,798	\$2,572,695	\$3,901,455	\$2,547,649	\$127,382
Sheriff	\$135,999,764	\$130,664,708	\$144,223,332	\$136,962,601	\$6,848,130
Superior Court	\$9,909,792	\$9,421,941	\$10,048,445	\$9,793,393	\$489,670
Treasurer and Tax Collector	\$747,881	\$1,233,007	\$1,444,734	\$1,141,874	\$57,094
Total	\$407,343,387	\$410,506,624	\$441,189,280	\$419,679,765	\$20,983,990

Amount Paid includes indemnity and legal costs associated with claims and litigation, including workers' compensation and tort claims.

**County of Los Angeles
Risk Management Guidelines**

Title:

Risk Exposure Cost Avoidance Plan (RECAP)

Page 1 of 11

Purpose

The Risk Exposure Cost Avoidance Plan (RECAP) is intended to provide County of Los Angeles (County) departments' management with an objective method to evaluate its risk management program, including liability claims, occupational safety, and workers' compensation claim performance. In addition, RECAP provides County departments with a systematic risk management planning process. The program involves the development and implementation of an annual risk management and occupational safety/liability loss control planning and objective completion tracking tool.

General Information

RECAPs are prepared each fiscal year, consisting of three principal parts: 1) Overview of Department Risk Management Program; 2) Statistical Goals; and 3) Risk Management Objectives, including project descriptions with target completion dates.

The following should be considered when preparing an annual RECAP:

- Critical risk management issues that result in liability or employee-related loss. Departments should utilize information provided in the department's Risk and Needs Assessment prepared by the Chief Executive Office (CEO) Risk Management Branch.
- Five to seven objectives with appropriate, clearly defined project activity description(s).
- Solving the risk management issues within the department.
- Statistical goals must demonstrate plan effectiveness to be evaluated according to the successful completion of these objectives.
- Do not focus on routine or maintenance-type projects/activities (i.e., monthly inspections, monthly safety meetings, etc.) unless there is a need to restructure the project activities to improve performance.
- Senior Management should approve each plan and conduct mid-year performance reviews versus plan objectives.
- Submit an annual RECAP plan to the CEO Risk Management Branch by the end of each fiscal year (June 30). In addition, all departments are required to submit both mid- and year-end status reports to the CEO Risk Management Branch.
- CEO Risk Management Branch staff is available for assistance in completing RECAPs.

Document Number:
RECAP001

County of Los Angeles
Chief Executive Office
Risk Management Branch

Modification Date:
9/18/2009

**County of Los Angeles
Risk Management Guidelines**

Title:

Risk Exposure Cost Avoidance Plan (RECAP)

Page 2 of 11

RECAP

Risk Management Cost Reduction Planning Program

Fiscal Year:

Department:

APPROVALS:

Risk Management Coordinator

Signature

Date

Department Head

Signature

Date

Document Number:
RECAP001

County of Los Angeles
Chief Executive Office
Risk Management Branch

Modification Date:
9/18/2009

**County of Los Angeles
Risk Management Guidelines**

Title:

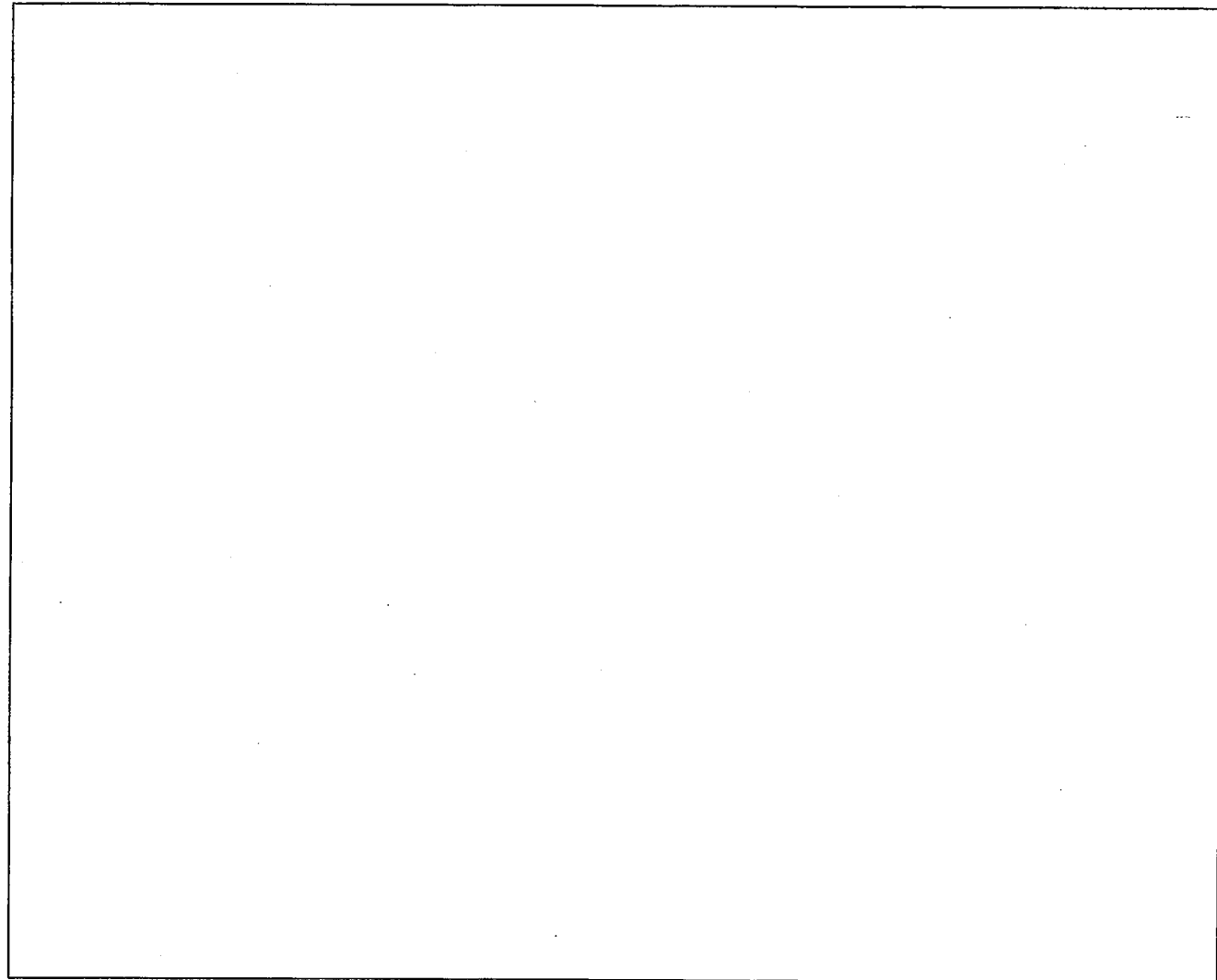
Risk Exposure Cost Avoidance Plan (RECAP)

Page 3 of 11

RECAP

Overview of Department Risk Management Program

Fiscal Year:



Attach additional pages if necessary.

Document Number:
RECAP001

County of Los Angeles
Chief Executive Office
Risk Management Branch

Modification Date:
9/18/2009

**County of Los Angeles
Risk Management Guidelines**

Title:

Risk Exposure Cost Avoidance Plan (RECAP)

Page 4 of 11

RECAP

Performance Data and Statistical Goals/Trends

Fiscal Year (FY)

1. Liability Claim Performance

Measure	Actual FY ()	Actual FY ()	Actual FY ()	3-Year Average
Total number of all claims. ¹				
Number of General Liability claims.				
Total indemnity (OC) paid ² for General Liability claims.				
Total legal fees and costs (SS) paid ² for General Liability claims.				
Number of Vehicle Liability claims.				
Total indemnity (OC) paid ² for Vehicle Liability claims.				
Total legal fees and costs (SS) paid ² for Vehicle Liability claims.				
Number of Medical Malpractice claims.				
Total indemnity (OC) paid ² for Medical Malpractice claims.				
Total legal fees and costs (SS) paid ² for Medical Malpractice claims.				
Total indemnity (OC) paid ² for all claims.				
Total legal fees and costs (SS) paid ² for all claims.				
Total Outstanding Liability (total reserves) for all claims.				

1. Number of claims is the total of all claims (including all suffixes) entered into the Risk Management Information System (RMIS) during the fiscal year.
2. Total paid is based on transaction dates within each fiscal year as listed in RMIS.

Document Number:
RECAP001

County of Los Angeles
Chief Executive Office
Risk Management Branch

Modification Date:
9/18/2009

**County of Los Angeles
Risk Management Guidelines**

Title:

Risk Exposure Cost Avoidance Plan (RECAP)

Page 5 of 11

2. Workers' Compensation Claim Performance

Measure	Actual FY ()	Actual FY ()	Actual FY ()	3-Year Average
Number of new Workers' Compensation claims filed during the period.				
Number of open and re-opened Workers' Compensation claims as of June 30.				
Total Workers' Compensation expense paid during the period.				
Total paid for Salary Continuation/Labor Code 4850 during the period.				
Number of employees ¹ as of June 30.				
Workers' Compensation Claim Report Rate (number of claims reported per 100 employees) for the period.				

1. Number of employees is the sum of currently filled full-time and part-time positions.

3. Occupational Safety and Health Performance

Measure	Actual CY ¹ ()	Actual CY ()	Actual CY ()	3-Year Average
Total number of cases with days away from work ² .				
Total number of cases with job transfer or restriction ² .				
Total number of other recordable cases ² .				
Total number of days of job transfer or restriction ² .				
Total number of days away from work ² .				
Number of deaths ² .				
Total OSHA Incident Rate. (Incidence Rate for all recordable cases of injury and illness) ³ .				
Lost Workday Incident Rate.				

1. The OSHA recordkeeping process is based on Calendar Year (CY).
2. This information is available from the Departmental OSHA 300 log(s).
3. Can be calculated using the Cal/OSHA Form titled: *Calculating Injury and Illness Incidence Rates*.

Document Number:
RECAP001

County of Los Angeles
Chief Executive Office
Risk Management Branch

Modification Date:
9/18/2009

**County of Los Angeles
Risk Management Guidelines**

Title:

Risk Exposure Cost Avoidance Plan (RECAP)

Page 6 of 11

4. Vehicle and Fleet Safety Performance

Measure	Actual FY ()	Actual FY ()	Actual FY ()	3-Year Average
Number of Department-owned vehicles.				
Total number of vehicle accidents involving Department-owned (or leased) vehicles.				
Number of preventable vehicle accidents involving Department-owned (or leased) vehicles.				
Number of non-preventable vehicle accidents involving Department-owned (or leased) vehicles.				
Total cost paid for damage involving Department-owned (or leased) vehicles (not including third party claim/damage cost).				
Number of Department permittee drivers as of June 30.				
Number of permittee miles driven during period.				
Total number of vehicle accidents involving permittee drivers.				
Number of preventable vehicle accidents involving permittee drivers.				
Number of non-preventable vehicle accidents involving permittee drivers.				
Total cost paid for damage involving vehicles driven by permittee drivers (not including third party claim/damage cost).				

5. Department Cost of Risk

Measure	Actual FY ()	Actual FY ()	Actual FY ()	3-Year Average
Department operating budget.				
Total Workers' Compensation expense paid during the period.				
Total Liability cost paid during the period.				
Total Salary Continuation/Labor Code 4850 cost paid during the period.				
Total Workers' Compensation, Liability, and Salary Continuation/Labor Code 4850 cost paid during the period.				
Cost of Risk (% total paid/operating budget).				

Document Number:
RECAP001

County of Los Angeles
Chief Executive Office
Risk Management Branch

Modification Date:
9/18/2009

**County of Los Angeles
Risk Management Guidelines**

Title:

Risk Exposure Cost Avoidance Plan (RECAP)

Page 7 of 11

6. Department Cost Reduction Goal

Reduction goal category:

The cost reduction goal category is based on a reduction in: 1) Total liability cost paid; 2) Total workers' compensation cost paid; or 3) Total Cost of Risk.

Measure	Percentage Cost Reduction Goal	Cost Reduction Goal
Far Exceeds Expectations		
Exceeds Expectations		
Meets Expectations		

Document Number:
RECAP001

County of Los Angeles
Chief Executive Office
Risk Management Branch

Modification Date:
9/18/2009

**County of Los Angeles
Risk Management Guidelines**

Title:

Risk Exposure Cost Avoidance Plan (RECAP)

Page 8 of 11

7. Departmental Risk Management Objectives

Department:

RISK MANAGEMENT OBJECTIVES	PROJECT ACTIVITY DESCRIPTION (INCLUDE RESPONSIBLE INDIVIDUAL)	PROJECT COMPLETION DATE

Attach additional pages if necessary.

Document Number:
RECAP001

County of Los Angeles
Chief Executive Office
Risk Management Branch

Modification Date:
9/18/2009

**County of Los Angeles
Risk Management Guidelines**

Title:

Risk Exposure Cost Avoidance Plan (RECAP)

Page 9 of 11

**RECAP
Department A
FY 2009-10**

SAMPLE RISK MANAGEMENT OBJECTIVES

RISK MANAGEMENT OBJECTIVES	PROJECT ACTIVITY DESCRIPTION (INCLUDE RESPONSIBLE INDIVIDUAL)	PROJECT COMPLETION DATE
Establish a risk management performance data collection process.	Department Risk Management Coordinator will work with department finance and operations management to develop, track, and report key risk management data to executive management on a monthly basis. Performance data to include safety, workers' compensation, liability claims, and vehicle safety measures.	Monthly report will be developed, approved, and distributed by December 1, 2009 (for October 2009 period).
Develop and conduct supervisor/manager risk management training for all departmental supervisors and managers.	Department Risk Management Coordinator will work with CEO Risk Management, County Counsel, and the Department of Human Resources to implement system-wide risk management training for all effected supervisors and managers.	Initial training (20% of identified participants) will be conducted by January 1, 2010 , with 80% of the identified participants trained by May 31, 2010 .
Conduct a comprehensive risk management staffing/function evaluation.	Assigned departmental manager (Administrative Deputy or Chief Deputy) will work with CEO Risk Management to draft a staffing review scope and conduct a detailed evaluation of departmental risk management resources.	Study will be completed and reported to Department Director and Deputy Chief Executive Officer by April 1, 2010 .
Develop and implement a comprehensive fleet safety program within the department.	Assigned manager will evaluate the departmental vehicle/fleet exposure and draft/implement a department-wide fleet safety program.	Fleet safety program will be drafted and approved by Department Head by November 1, 2009 . Approved program will be implemented for affected drivers by June 30, 2010 .

Document Number:
RECAP001

County of Los Angeles
Chief Executive Office
Risk Management Branch

Modification Date:
9/18/2009

**County of Los Angeles
Risk Management Guidelines**

Title:

Risk Exposure Cost Avoidance Plan (RECAP)

Page 10 of 11

8. Performance Data and Statistical Goal Definitions

Liability Claim:	A document submitted by a third party in accordance with statutory requirements, and alleging personal injury, bodily injury, property damage, or other losses sustained due to the acts or omissions of the County, its employees, officers, or agents. This is the total number of open/closed claims that were filed during the period. A claim includes all lawsuits and claims, but does not include incident reporting, unless a claim is opened as a result of the incident report.
General Liability Claim:	Claim arising when negligent acts and/or omissions result in bodily injury and/or property damage on the premises of a business, when someone is injured as the result of using the product manufactured or distributed by a business, or when someone is injured in the general operation of a business.
Vehicle Liability Claim:	Claim arising from negligent operation of a motor vehicle involving third party damage to property and/or people.
Medical Malpractice Claim:	Claim arising from professional negligence by act or omission by a health care provider in which care provided deviates from accepted standards of practice in the medical community and causes injury or death to the patient.
Indemnity Cost (OC):	Amount of money paid to compensate claimant and/or plaintiffs for damages, including <u>their</u> attorney fees and cost that are paid by the County. Cost listed as (OC) in RMIS.
Legal Fees and Costs (SS):	Amount of money paid for defense counsel (in-house and/or panel attorney) for a claim that are paid by the County. Cost listed as (SS) in RMIS.
Total Paid:	This is the actual amount of money paid on a claim during the reporting period. This is not the amount agreed to or discussed in settlement, but the actual amount of money disbursed on the claim, to include both indemnity (OC) and legal fees and costs (SS).
Total Outstanding Liability:	Total outstanding cost (reserves) for all liability claims at a point in time.
Workers' Compensation Claim:	Claim filed by Department employee for injury and/or illness that arose out of the course and scope of employment and provides compensation and medical care for employees who are injured in the course of employment, in exchange for mandatory relinquishment of the employee's right to sue his or her employer for the tort of negligence.
Salary Continuation/Labor Code 4850:	Supplemental salary replacement benefits paid in excess of indemnity benefits provided by the workers' compensation system according to County Code or State of California law.
OSHA Recordable Injury:	Occupational injury or illness that requires medical treatment, more than simple first aid, which must be reported on the OSHA 300 log.

Document Number:
RECAP001

County of Los Angeles
Chief Executive Office
Risk Management Branch

Modification Date:
9/18/2009

**County of Los Angeles
Risk Management Guidelines**

Title:

Risk Exposure Cost Avoidance Plan (RECAP)

Page 11 of 11

OSHA Lost Workday Injury:	The number of workdays (consecutive or not) on which the employee would have worked but could not because of occupational injury or illness.
OSHA Total Incident Rate:	Number of recordable injuries and illnesses occurring among a given number of full-time workers (usually 100 full-time workers) over a given period of time (usually one year).
Lost Workday Incident Rate:	Number of injuries and illnesses resulting in lost workdays occurring among a given number of full-time workers (usually 100 full-time workers) over a given period of time (usually one year).
Vehicle Accident:	An accident involving a Department-owned/leased vehicle and/or a permittee-owned vehicle (including drivers classified as occasional drivers) that resulted in damage or any other type of loss to persons, property, etc.
Department-Owned/Leased Vehicles:	Vehicles driven by County employees owned or leased by the Department or County. These are not the drivers' personal vehicles.
Number of Miles Driven During Period:	Actual number of miles driven by Departmental drivers for County-related activity (course and scope of work).
Permittee Driver:	County employee who is participating in the County permittee driver program and is certified/approved to drive a non-Department-owned vehicle for work purposes.
Risk Management Information System (RMIS):	The County's risk management and claims administration management system with ad-hoc reporting capabilities, which supports County claims administration, financial, statistical, and loss prevention functions.
Cost of Risk:	Percentage of Total Paid/Department Operating Budget.
Preventable Accident:	An accident in which the driver did not use all reasonable precautions in attempting to prevent the accident, regardless of any legal rights. Failure to report mechanical defects, when known, is cause for finding an accident preventable. If an accident results, even indirectly, from a violation of the California Vehicle Code, it is classified as preventable.
Non-preventable Accident:	An accident in which the employee exercised good judgment and used every reasonable means to avoid the accident. No violations of defensive driving practices must have been involved, and there must have been proper use of the vehicle as prescribed by the California Vehicle Code and County and departmental policies.

i:\Risk Mgt Inspector General\CAP-SCAP-RECAP\RECAP – revised 9-18-09 (js).doc

Document Number:
RECAP001

County of Los Angeles
Chief Executive Office
Risk Management Branch

Modification Date:
9/18/2009